



House of Representatives

General Assembly

File No. 493

February Session, 2018

Substitute House Bill No. 5249

House of Representatives, April 16, 2018

The Committee on Judiciary reported through REP. TONG of the 147th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING GPS MONITORING OF CONVICTED PERSONS AWAITING SENTENCING FOR AGGRAVATED SEXUAL ASSAULT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 54-63f of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2018*):

3 (a) A person who has been convicted of any offense, except a
4 violation of section 53a-54a, 53a-54b, 53a-54c or 53a-54d or any offense
5 involving the use, attempted use or threatened use of physical force
6 against another person, and is either awaiting sentence or has given
7 oral or written notice of such person's intention to appeal or file a
8 petition for certification or a writ of certiorari may be released pending
9 final disposition of the case, unless the court finds custody to be
10 necessary to provide reasonable assurance of such person's appearance
11 in court, upon the first of the following conditions of release found
12 sufficient by the court to provide such assurance: (1) Upon such
13 person's execution of a written promise to appear, (2) upon such

14 person's execution of a bond without surety in no greater amount than
15 necessary, (3) upon such person's execution of a bond with surety in no
16 greater amount than necessary, (4) upon such person's deposit, with
17 the clerk of the court having jurisdiction of the offense with which
18 such person stands convicted or any assistant clerk of such court who
19 is bonded in the same manner as the clerk or any person or officer
20 authorized to accept bail, a sum of money equal to the amount called
21 for by the bond required by the court, or (5) upon such person's pledge
22 of real property, the equity of which is equal to the amount called for
23 by the bond required by the court, provided the person pledging such
24 property is the owner of such property. When cash bail is offered, such
25 bond shall be executed and the money shall be received in lieu of a
26 surety or sureties upon such bond. Such cash bail shall be retained by
27 the clerk of such court until a final order of the court disposing of the
28 same is passed, provided, if such bond is forfeited, the clerk of such
29 court shall pay the money to the payee named therein, according to the
30 terms and conditions of the bond.

31 (b) In addition to any condition of release imposed pursuant to
32 subsection (a) of this section, the court shall order electronic
33 monitoring by a global positioning system device as a condition of
34 release for any person convicted for a violation of section 53a-70a or
35 53a-70c.

36 (c) The court may require that the person subject to electronic
37 monitoring pursuant to subsection (b) of this section pay directly to the
38 electronic monitoring service provider a fee for the cost of such
39 electronic monitoring services. If the court finds that the person subject
40 to electronic monitoring is indigent and unable to pay the costs of
41 electronic monitoring services, the court shall waive such costs. The
42 court may contract for such electronic monitoring services pursuant to
43 subsection (e) of section 54-64a, as amended by this act.

44 Sec. 2. Subsection (e) of section 54-64a of the 2018 supplement to the
45 general statutes is repealed and the following is substituted in lieu
46 thereof (*Effective October 1, 2018*):

47 (e) The court may require that the person subject to electronic
48 monitoring pursuant to subsection (c) of this section pay directly to the
49 electronic monitoring service provider a fee for the cost of such
50 electronic monitoring services. If the court finds that the person subject
51 to electronic monitoring is indigent and unable to pay the costs of
52 electronic monitoring services, the court shall waive such costs. Any
53 contract entered into by the Judicial Branch and [the electronic
54 monitoring service provider] a provider of electronic monitoring
55 services, which services may include, but need not be limited to, those
56 electronic monitoring services required pursuant to section 54-63f, as
57 amended by this act, shall include a provision stating that the total cost
58 for electronic monitoring services shall not exceed five dollars per day.
59 Such amount shall be indexed annually to reflect the rate of inflation.

This act shall take effect as follows and shall amend the following sections:

Section 1	October 1, 2018	54-63f
Sec. 2	October 1, 2018	54-64a(e)

JUD Joint Favorable Subst.

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 19 \$	FY 20 \$
Judicial Dept.	GF - Potential Cost	Minimal	Minimal

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill adds a condition of release for individuals convicted of certain sexual assault crimes, requiring that those individuals to be monitored by a global positions system (GPS) device and results in a potential cost for indigent offenders. The cost per day for GPS monitoring by court is \$12/day. The total cost for each individual is dependent upon the time frame of the appeal, but the average appeal time is greater than 2 months. The bill specifies that the offender must directly pay the provider any fee unless such person is indigent; in which case the fee will be waived to the offender and the cost is paid by the Judicial Department.

However, it is anticipated that this bill will affect very few cases. There are currently three cases on appeal for the offenses listed in this bill, and all offenders were unable to post bond and are incarcerated while awaiting appeal.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of cases.

OLR Bill Analysis**sHB 5249*****AN ACT CONCERNING GPS MONITORING OF CONVICTED PERSONS AWAITING SENTENCING FOR AGGRAVATED SEXUAL ASSAULT.*****SUMMARY**

With certain exceptions, the law allows an individual convicted of a crime who is awaiting sentencing or intends to appeal the conviction to be released pending the case's final disposition, subject to certain conditions set by the court. The court may not release an individual if (1) custody is necessary to assure he or she will appear in court for the disposition or (2) he or she was convicted of murder.

This bill requires the court to impose electronic monitoring by a global positioning system (GPS) device as a condition of release for any individual convicted of aggravated sexual assault of a minor or aggravated 1st degree sexual assault (see BACKGROUND). This requirement is in addition to any other condition of release the law allows the court to impose to assure the individual will appear in court (e.g., a written promise to appear or a bond).

The bill allows the court to require the person subject to monitoring to pay a fee for the electronic monitoring services, directly to the service provider. But the court may waive the fee if it finds that the individual is indigent and unable to pay it.

The bill also allows the Judicial Branch to contract for these electronic monitoring services, provided that it sets the cap for the services' total per day cost at \$5.00. The allowed cost must be indexed annually for inflation. Existing law allows the Judicial Branch to contract for other electronic monitoring services with the same cap on daily fees and fee indexing requirement.

EFFECTIVE DATE: October 1, 2018

BACKGROUND

Aggravated Sexual Assault of a Minor

A person commits “aggravated sexual assault of a minor” when he or she commits certain crimes against a child under age 13 and:

1. kidnaps, illegally restrains, stalks, disfigures, causes serious injury to, or uses violence against the victim;
2. commits the same offense against more than one victim under age 13;
3. does not know the victim; or
4. has previously been convicted of a violent sexual assault.

The covered crimes are: contact with the intimate parts of a child in a sexual or indecent manner likely to impair the child's health or morals, 1st or 2nd degree sexual assault, 1st degree aggravated sexual assault (see below), 1st or 2nd degree promoting prostitution, and employing a minor in an obscene performance. Aggravated sexual assault of a minor is a class A felony with a 25-year mandatory minimum prison sentence for a first offense and a 50-year mandatory minimum sentence for a subsequent offense (CGS § 53a-70c).

Aggravated 1st Degree Sexual Assault

A person commits aggravated 1st degree sexual assault when he or she commits 1st degree sexual assault and in doing so:

1. uses, is armed with and threatens to use, or displays or represents by words or conduct that he or she possesses a deadly weapon;
2. injures the victim with intent to (a) disfigure the victim seriously and permanently or (b) destroy, amputate, or permanently disable a member or organ of the victim’s body;

3. with an extreme indifference to human life, seriously physically injures the victim by recklessly engaging in conduct that creates a risk of death to the victim; or
4. is aided by two or more other people who are present.

Aggravated 1st degree sexual assault is a (1) class B felony with a five-year mandatory minimum prison sentence or (2) class A felony with a 10 year mandatory minimum if the victim is under age 16 (CGS § 53a-70a).

BACKGROUND

Related Bill

sSB 239, which was favorably reported by the Judiciary Committee, contains identical provisions to this bill.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 41 Nay 0 (04/03/2018)